

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SCOTT FISCHER,)	
)	
Plaintiff,)	
)	
v.)	1:12CV392
)	
GLAXOSMITHKLINE, LLC,)	
)	
Defendant.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on December 28, 2012, was served on the parties in this action. Plaintiff filed objections to the Recommendation [Doc. # 22] and Defendant responded [Doc. # 23].

The Court has conducted a de novo review of Defendant's Motion to Dismiss [Doc. # 7], and the Court hereby **ADOPTS** the Magistrate Judge's Recommendation granting the Defendant's Motion to Dismiss [Doc. # 19].

Plaintiff has not filed a response to Defendant's Motion to Dismiss and has not provided any excuse that would allow the Court to find that this failure to file was excusable neglect pursuant to Local Rule 7.3(k). Plaintiff's claim is also barred by the three year statute of limitations for a product liability action. See N.C. Gen. Stat. § 1-52(16).

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss [Doc. # 7] is **GRANTED** and that this action is **DISMISSED**.

This the 8th day of April, 2013.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge